

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DACHARY LAMONT DAVIS,)	CASE NO. 5:11CV00996
)	
Plaintiff,)	
)	JUDGE BENITA Y. PEARSON
v.)	
)	
JOHN COLEMAN,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Respondent.)	<u>ORDER</u> (Regarding ECF Nos. 6, 12)

Before the Court is the Report and Recommendation of Magistrate Judge Kathleen B. Burke recommending that *Pro se* Petitioner Dachary Lamont Davis's petition for writ of habeas corpus filed pursuant to [28 U.S.C. § 2254](#) be dismissed and Respondent John Coleman's motion to dismiss be granted.¹ [ECF Nos. 1, 6](#).

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. [Thomas v. Arn, 728 F.2d 813 \(6th Cir. 1984\)](#), *aff'd*, [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#); [Howard v. Sec'y of Health and Human Servs, 932 F.2d 505 \(6th Cir. 1991\)](#); [U.S. v. Walters, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#). Parties must file objections to a Report and Recommendation within fourteen days of service. [Id.](#); [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas, 474 U.S. at 145](#). Absent objection, a district court may adopt a magistrate

¹ The matter was referred to Magistrate Judge Kathleen B. Burke for the preparation of a Report and Recommendation on the petition for writ of habeas corpus pursuant to Local Rule 72.2 and General Order 2011-18.

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judge's report without review. See Thomas, 474 U.S. at 149.

In the instant case, Petitioner Davis has not filed objections to the Report and Recommendation. The Court finds that the Report and Recommendation is supported by the record, and agrees with the recommendation to dismiss the instant petition pursuant to 28 U.S.C. § 2244(d). Accordingly, the Court adopts Magistrate Judge Kathleen B. Burke's Report and Recommendation. ECF No. 12. Petitioner Davis's petition (ECF No. 1) is dismissed, and Respondent Coleman's motion to dismiss is granted (ECF No. 6). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from its decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

The Clerk of this Court shall send a copy of the Order by regular mail to Dachary Lamont Davis at Allen Correctional Institution, 2338 North West Street, Lima, OH 45802-4501.

IT IS SO ORDERED.

March 21, 2012

Date

/s/ Benita Y. Pearson

Benita Y. Pearson

United States District Judge